

REMARKS / ARGUMENTS

Claims 1-15 are currently pending in the application. No claims are allowed. Claims 1, 4, 9 and 10 are rejected and claims 2, 3, 5-8 and 11-14 are objected to. Claims 1, 4, 9 and 10 are cancelled without prejudice or disclaimer and claims 2, 3, 5 and 11 are amended. Claim 15 is withdrawn from consideration in affirmation of the provisional election of May 3, 2004.

In the Office Action, a restriction was stated to one of the following inventions under 35 U.S.C. § 121:

- I. Claims 1-14, drawn to underwater weapon, classified in class 89, subclass 7.
- II. Claim 15, drawn to a system for producing a cavitating jet, classified in class 440, subclass 45.

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions. Invention I is directed towards a weapon and Invention II has a different function such as propulsion for a boat.

During a telephone conversation with James Kasischke on 5/3/04 a provisional election was made with traverse to

prosecute the invention of an underwater weapon, claims 1-14. Affirmation of this election must be made by Applicant in replying to this Office action. Claim 15 is withdrawn from further consideration by the Examiner, 37 CFR § 1.142(b), as being drawn to a non-elected invention.

In the Office Action, claims 1, 4, 9 and 10 were rejected under 35 U.S.C. § 102(b) as being anticipated by Edlin (reference A: U.S. Patent No. 1,117,351).

As to claim 1, the Office Action states that the cited reference discloses the step of filling a chamber, injecting fuel in the chamber; igniting the fuel, ejecting the created pressure and removing the combustion gas.

As to claim 4, the Office Action states that the cited reference discloses the step of injecting the fuel into the chamber with the pressure in said chamber is substantially maintained.

As to claim 9, the Office Action states that the Edlin reference discloses a containment chamber (2) in communication with a source of fluid and a source of fuel; an igniter (12); a nozzle (pipe); an exhaust passageway (pipe).

As to claim 10, the Office Action states that the cited reference discloses a controller (5).

In the Office Action claims 2, 3, 5-8 and 11-14 were objected to as being dependent upon a rejected base claim, but

would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

These rejections and objections are respectfully traversed in view of these amendments and the remarks that follow. Applicant therefore solicits reconsideration and allowance of the claims of the above-identified application.

In the Office Action, claims 1, 4, 9 and 10 were rejected under 35 U.S.C. § 102(b) as being anticipated by Edlin (reference A: U.S. Patent No. 1,117,351). In response, claims 1, 4, 9 and 10 are cancelled without prejudice or disclaimer and therefore the rejection of the Office Action is resolved.

In the Office Action claims 2, 3, 5-8 and 11-14 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, claims 2, 5 and 11 have been written into independent form with claim 3 amended to be dependant on claim 2. Claims 6-8 and 12-14 maintain their original dependency on claims 5 and 11 respectively; and, therefore claim 6-8 and 12-14 remain as originally written. As result of the incorporation of the limitations of the rejected base claims and intervening claims into amended claims 2, 5 and 11, the objections of the Office Action are therefore resolved.

In view of the above claims and the remarks in support thereof, applicants respectfully request reconsideration and allowance of the application.

The Examiner is invited to telephone Michael P. Stanley; Attorney for Applicants, at 401-832-6393 if, in the opinion of the Examiner, such a telephone call would serve to expedite the prosecution of the subject patent application.

Respectfully submitted,
THOMAS J. GIESEKE ET AL

11 August 2004

By

A handwritten signature in dark ink, appearing to read "Michael P. Stanley", is written over a horizontal line.

MICHAEL P. STANLEY
Attorney of Record
Reg. No. 47108